

File No.: 1946/1B035-US4

**DECLARATION AND POWER OF ATTORNEY**  
(Continuation-In-Part Application)

As a below named inventor, I declare that:

1. The information given herein is true, and I believe that I am the original, first and sole inventor (if only one name is listed below), or a joint inventor (if plural inventors are named below), of the invention entitled:

COMPOUNDS AND COMPOSITIONS FOR DELIVERING ACTIVE AGENTS

which is described and claimed in:

the attached specification or

☒ the specification in application  
Serial No. 08/798,031,  
Filed: February 6, 1997  
(for declaration not accompanying application);

2. This application in part discloses and claims new subject matter as well as subject matter disclosed in my earlier-filed application(s)

Serial No. PCT/US96/04580  
Filed: April 1, 1996

Serial No. 08/414,654 (now, U.S. Patent 5,650,386)  
Filed: March 31, 1995  
For: COMPOUNDS AND COMPOSITIONS FOR DELIVERING ACTIVE AGENTS

Serial No. 60/003,111  
Filed: September 1, 1995

Serial No. 60/017,902  
Filed: March 29, 1996

3. I acknowledge my duty to disclose information of which I am aware which is material to patentability in accordance with 37 C.F.R. §1.56, including such material information which became available between the filing date of said earlier application(s) and the filing date of this application.

4. I have reviewed and understand the contents of the specification, including the claims, as amended by any amendment specifically referred to herein.

5. As to the subject matter of this application which is common to said earlier application I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof or patented or described in any printed publication in any country before my or our invention thereof, or more than one year prior to said earlier application or in public use or on sale in the United States of America more than one year prior to said earlier application; said common subject matter has not been patented or made the subject of an inventor's certificate issued before the date of said earlier application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to said earlier application.

I hereby claim priority benefits under Title 35, United States Code, 119 of any U.S. provisional application(s) listed below:

**PRIOR APPLICATION(S), IF ANY, OF WHICH PRIORITY IS CLAIMED**

<u>COUNTRY</u>	<u>APPLICATION NO.</u>	<u>DATE OF FILING</u>
U.S.	60/017,902	3/29/96
U.S.	60/003,111	9/1/95

I hereby claim foreign priority benefits under Title 35, United States Code, 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

**ALL FOREIGN APPLICATIONS, IF ANY, FILED PRIOR  
TO THE APPLICATION(S) OF WHICH PRIORITY IS CLAIMED**

<u>COUNTRY</u>	<u>APPLICATION NO.</u>	<u>DATE OF FILING</u>
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<u>COUNTRY</u>	<u>APPLICATION NO.</u>	<u>DATE OF FILING</u>
U.S.	08/414,654	3/31/95
PCT	PCT/US96/04580	4/1/96

PCT Application Serial No. PCT/US96/04580 filed on April 1, 1996, claims priority from U.S. Provisional Application Serial No. 60/003,111 filed on September 1, 1995 and U.S. Provisional Application Serial No. 60/017,902 filed on March 29, 1996.

6. As to the new subject matter of the present application which is not common to said earlier application I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof or patented or described in a printed publication in any country before my or our invention thereof or more than one year prior to the date of this application, or in public use or on sale in the United States of America more than one year prior to the date of the present application, and said matter has not been patented or made the subject of an inventor's certificate in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to the date of this application. As to the new subject matter of the present application which is not common to said earlier application, I hereby claim the priority benefits under 35 U.S.C. 119 of any application(s) for patent or inventor's certificate listed below. All applications for patent or inventor's certificate on this invention filed by me or my legal representatives or assigns prior to the application(s) of which priority is claimed for the new subject matter are also identified below.

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<u>COUNTRY</u>	<u>APPLICATION NO.</u>	<u>DATE OF FILING</u>
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COUNTRY

APPLICATION NO.

DATE OF FILING

**POWER OF ATTORNEY:**

As a named inventor, I hereby appoint the following attorney(s) and/or agents(s) to prosecute this application and transact all business in the Patent and Trademark office connected therewith: Gordon D. Coplein #19,165, William F. Dudine, Jr. #20,569, Michael J. Sweedler #19,937, S. Peter Ludwig #25,351, Paul Fields #20,298, Harold E. Wurst #22,183, Joseph B. Lerch #26,936, Melvin C. Garner #26,272, Ethan Horwitz #27,646, Beverly B. Goodwin #28,417, Adda C. Gogoris #29,714, Martin E. Goldstein #20,869, Bert J. Lewen #19,407, Henry Sternberg #22,408, Robert A. Green #28,301, Peter C. Schechter #31,662, Robert Schaffer #31,194, David R. Francescani #25,159, Robert C. Sullivan, Jr. #30,499, Ira J. Levy #35,587, Joseph R. Robinson #33,448

all of the firm of DARBY & DARBY P.C., 805 Third Avenue, New York, NY 10022 and Loretta A. Miraglia #34,680 of Emisphere Technologies, Inc.

SEND CORRESPONDENCE TO:  
TO:

DIRECT TELEPHONE CALLS

DARBY & DARBY P.C.  
805 Third Avenue  
New York, NY 10022

Joseph R. Robinson  
212-527-7700

IDENTIFICATION OF INVENTOR 1

LAST NAME: Leone-Bay FIRST NAME: Andrea MIDDLE NAME:

CITY: Ridgefield STATE OR FOREIGN COUNTRY: Connecticut COUNTRY OF CITIZENSHIP: U.S.A.

POST OFFICE ADDRESS: 20 Woodland Way CITY: Ridgefield STATE OR COUNTRY: Connecticut ZIP CODE: 06877

IDENTIFICATION OF INVENTOR 2

LAST NAME: Ho FIRST NAME: Koc-Kan MIDDLE NAME:

CITY: Monmouth Junction STATE OR FOREIGN COUNTRY: New Jersey COUNTRY OF CITIZENSHIP: Macao

POST OFFICE ADDRESS: 104 Pheasant Run CITY: Monmouth Junction STATE OR COUNTRY: New Jersey ZIP CODE: 08852

IDENTIFICATION OF INVENTOR 3

LAST NAME: Sarubbi FIRST NAME: Donald MIDDLE NAME: J.

CITY: Carmel STATE OR FOREIGN COUNTRY: New York COUNTRY OF CITIZENSHIP: U.S.A.

POST OFFICE ADDRESS: 25 Gail Court CITY: Carmel STATE OR COUNTRY: New York ZIP CODE: 10512

IDENTIFICATION OF INVENTOR 4

LAST NAME: Milstein FIRST NAME: Sam MIDDLE NAME: J.

CITY: Larchmont STATE OR FOREIGN COUNTRY: New York COUNTRY OF CITIZENSHIP: U.S.A

POST OFFICE ADDRESS: 105 Willow Avenue CITY: Larchmont STATE OR COUNTRY: New York ZIP CODE: 10538

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

SIGNATURE OF INVENTOR 1: \_\_\_\_\_ DATED: \_\_\_\_\_

SIGNATURE OF INVENTOR 2: *H. Kurtz* DATED: 11/03/88

SIGNATURE OF INVENTOR 3: \_\_\_\_\_ DATED: \_\_\_\_\_

SIGNATURE OF INVENTOR 4: \_\_\_\_\_ DATED: \_\_\_\_\_

(D&D Forms/PTO-22)  
(EMI Form 1)

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COUNTRY      APPLICATION NO.      DATE OF FILING

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all of the firm of DARBY & DARBY P.C., 805 Third Avenue, New York, NY 10022 and Loretta A. Miraglia #34,680 of Emisphere Technologies, Inc.

SEND CORRESPONDENCE TO:  
TO:

DIRECT TELEPHONE CALLS

DARBY & DARBY P.C.  
805 Third Avenue  
New York, NY 10022

Joseph R. Robinson

212-527-7700

IDENTIFICATION OF INVENTOR 1

LAST NAME: Leone-Bay      FIRST NAME: Andrea      MIDDLE NAME:

CITY: Ridgefield      STATE OR FOREIGN COUNTRY: Connecticut      COUNTRY OF CITIZENSHIP: U.S.A.

POST OFFICE ADDRESS: 20 Woodland Way      CITY: Ridgefield      STATE OR COUNTRY: Connecticut      ZIP CODE: 06877

IDENTIFICATION OF INVENTOR 2

LAST NAME: Ho      FIRST NAME: Koc-Kan      MIDDLE NAME:

CITY: Monmouth Junction      STATE OR FOREIGN COUNTRY: New Jersey      COUNTRY OF CITIZENSHIP: Macao

POST OFFICE ADDRESS: 104 Pheasant Run      CITY: Monmouth Junction      STATE OR COUNTRY: New Jersey      ZIP CODE: 08852

IDENTIFICATION OF INVENTOR 3

LAST NAME: Sarubbi      FIRST NAME: Donald      MIDDLE NAME: J.

CITY: Carmel      STATE OR FOREIGN COUNTRY: New York      COUNTRY OF CITIZENSHIP: U.S.A.

POST OFFICE ADDRESS: 25 Gail Court      CITY: Carmel      STATE OR COUNTRY: New York      ZIP CODE: 10512

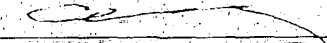
IDENTIFICATION OF INVENTOR 4

LAST NAME: Milstein      FIRST NAME: Sam      MIDDLE NAME: J.

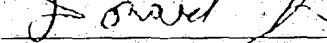
CITY: Larchmont STATE OR FOREIGN COUNTRY: New York COUNTRY OF CITIZENSHIP: U.S.A

POST OFFICE ADDRESS: 105 Willow Avenue CITY: Larchmont STATE OR COUNTRY: New York ZIP CODE: 10538

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

SIGNATURE OF INVENTOR 1:  DATED: 11-3-98

SIGNATURE OF INVENTOR 2: \_\_\_\_\_ DATED: \_\_\_\_\_

SIGNATURE OF INVENTOR 3:  DATED: 11/2/98

SIGNATURE OF INVENTOR 4:  DATED: 11/2/98

(D&D Forms/PTO-22)  
(EMI Form 1)